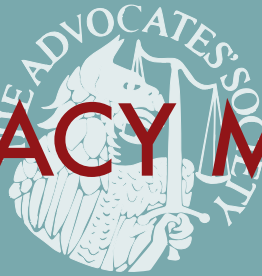


ADVOCACY MATTERS



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Congratulations to
Samuel S. Marr, Landy Marr Kats LLP
recipient of the 2015 Catzman Award for Professionalism & Civility

[Click Here to Learn More](#)

EDITOR'S NOTE



EDITOR: PETER J. HENEIN,
CASSELS BROCK LLP

Ah, summer... When every lawyer, young or old, turns on his or her "Out of Office Assistant", hops on a plane, train or automobile, and then promptly spends the next week or two sitting on a beach answering emails and phone calls from the office. Well, I hope this month finds you in good spirits and that you can cozy up with your favourite tablet or laptop to read this issue by the water, while your family and friends enjoy their vacation.

This issue is tightly packed with enough TAS-y goodness to keep you going until we see you again in September. In addition to the usual TAS Highlights and Reminders section, Greg Cholkan blogs about the *Arthur Wishart Act*, we get a roundup of Society members' great pro bono involvement (compiled by our very own Sarah

Armstrong), I interview Susanne Sviergula of Cavanagh LLP and we feature some photos from last month's End of Term (none of which include me - a crime, I say).

Speaking of End of Term, to those who attended, I sincerely apologize for anything I may have said or done. I'm sure there are one or two of you out there. And to my dear friend, Stephen Grant, who felt compelled to email me to correct my last editorial by advising that End of Term refers to the end of the spring sittings, not the TAS President's term, I say, "Nuts to you, Mr. Grant!" That may be (technically) correct, but in practice, the court, like Chicago or New York, never sleeps. So, I respectfully submit that the relevant "term" (at least to all the kids out there) is that of TAS. However, lest I be accused of unfairly shutting down debate, I invite constructive criticism from the rest of you on this and any other aspect of Advocacy Matters.

See you all in September.

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TAS HIGHLIGHTS AND REMINDERS

- End of Term Dinner (June 18) - 1,400 Society members gathered at the MTCC to celebrate the term, connect with colleagues and bid farewell to outgoing President Peter Lukasiewicz. MC (and incoming President) Martha McCarthy's promise of Less Speechifying, More Networking was a hit with the crowd. Also known as #LawProm on Twitter, this year's event featured keynote speaker Scott Turow and another fabulous After-Party at the Steam Whistle Brewery.
- A new hub for litigation jobs, The Advocates' Exchange Career Board is a great place to post and search for litigation positions for all levels of practice. Society members benefit from discounted rates for ad placements. For more information, click [here](#).
- Law school students, students in pre-licensing programs and international litigators are now eligible to apply for membership in the Society. For more information, click [here](#).
- Samuel Marr of Landy Marr Kats LLP will be presented with the Catzman Award for Professionalism and Civility on September 24, 2015 at the Opening of the Courts in Toronto. For more information, click [here](#).
- Joseph J. Arvay, Q.C. of Farris LLP will be presented with the Award of Justice on October 27, 2015 at a dinner in Toronto. For more information or to register, click [here](#).

TOP TAS BLOG



I Just Need Some Disclosure: Criticisms of the Arthur Wishart Act

BY: GREG CHOLKAN,
BARRISTON LAW LLP

In Ontario, franchise laws "require a franchisor to give a prospective franchisee a disclosure document that clearly and concisely states all 'material facts', and that also includes prescribed financial statements, contracts, other documents, ancillary information and a certificate of disclosure." That's all fine and dandy. But how many times do I have to say it? Good intentions do not necessarily make good laws...

[Click Here To Read More](#)

TAS SUBMISSIONS

- On June 18, The Advocates' Society released the *Best Practices for Civil Trials*. The *Best Practices* are the result of months of research, discussion, and consultation with the judiciary and members of the bar on the most effective tools to make civil trials more efficient. You can read the *Best Practices* [here](#).
- On July 2, the Ontario Divisional Court dismissed Trinity Western University's application for judicial review of the decision of the Law Society of Upper Canada not to accredit the proposed law school at TWU. The Advocates' Society made submissions as an intervener, supporting the decision of the Law Society and stressing the Law Society's statutory jurisdiction to consider the broader public interest in making a decision on accreditation. The decision of the Court is [here](#).
- On June 17, the Supreme Court of Canada granted leave to The Advocates' Society to intervene in the matter of *Attorney General of Canada v. Chambre des notaires du Québec*, an appeal involving the constitutionality of provisions of the *Income Tax Act* that appear to be in conflict with the contours of solicitor-client privilege. The Society will submit its factum in August. The appeal is scheduled to be heard on November 3, 2015.

Interview with Susanne Sviergula, Cavanagh LLP

BY: PETER J. HENEIN, CASSELS BROCK LLP



Susanne's practice focuses on insurance litigation, employment law and defending professional liability claims. After her undergrad at the University of Ottawa, she spent two years teaching English in Japan before returning to Canada to study law at U of Windsor. Now back in Ottawa, Susanne is very active in the local bar. She speaks. She mentors. She plans. Aside from her zeal for litigation, Susanne is equally crazed about running and cross-country skiing and has some serious cheesecake-making skills.

1

THE LAW: MAGIC OR DAILY GRIND? I would prefer a venti flat white, actually.

3

WHERE DO YOU FIND INSPIRATION ON A FILE?
From my individual clients and wanting to help them. Cheesy, but it is honestly true.

FAVOURITE JUDGE OR MASTER?

Justice Louise Charron, because she gave me her sugar pie recipe.

2

FAVOURITE APP? I am one of the 12 people left on earth proudly and happily using a Blackberry, so "apps" aren't my thing. I will admit to having SoundCloud & the McKellar Slide Rule (yes, I am that much of a geek) on my BB, though.

4

5

WHAT'S THE FUNNIEST THING ABOUT YOUR JOB?

The people I work with and the stories that come out of them. And, the endless list of odd things that I have had to learn to do this job (i.e., what do you want to know about Pekingese dog breeding? Seriously. That subject was not covered in law school.)

8

THE GREATEST LEGAL MIND, OTHER THAN YOURSELF?

Dr. Seuss. Although not a member of any bar of which I am aware, there was no subject he could not analyze and explain, and he nailed the art of persuasive writing. I would like to think he would have been a brilliant lawyer.

WHEN YOU WANT TO UNWIND, YOU...?

Run, run, run some more and then maybe a beer (okay, there should not be a "maybe" in that sentence).

9

6

WORK? LIFE? BALANCE?

All of the above, please.

10

WHAT GIVES YOU SANITY?

The marathon.

WHEN DO THE EMAILS START FLOWING?

Well, I will not hit the "send" button until around 7a.m., but I can neither confirm nor deny the drafting of said emails prior to that hour.

12

13

WHAT DRIVES YOU TO MADNESS? Bad drivers and people who don't signal in parking lots.

7

FAVOURITE RESTAURANT?
Wellington Gastropub.

11

BEST ALBUM EVER?
The Police, *Synchronicity*.

WHERE DOES LIGHTNING COME FROM?

A judge's scorn.

14



Photo by Sean Robichaud

ADVOCACY IN ACTION

THE PROS OF PRO BONO

COMPILED BY: SARAH ARMSTRONG, FASKEN MARTINEAU DUMOULIN LLP

The Advocates' Society is proud of its many members who serve their communities by offering pro bono services to improve access to justice. Society members participate in a variety of pro bono programs. In this feature, we highlight the pro bono projects that the Society supports and the members who commit their time and passion to this work.



SARAH ARMSTRONG, FASKEN MARTINEAU DUMOULIN LLP

I volunteer with the [Child Advocacy Project's Education Law Program](https://www.pblo.org/volunteer/educationlaw/) to help low income families and their children address unlawful conditions at school. I deal with a range of issues including special education, discipline and bullying. Over my 12 years with the project, I have had the privilege of helping many amazing kids achieve their potential, including a young boy with a cleft palate and speech impediment being bullied at school, in need of help to secure speech therapy services and to ensure his school was a safe place for him to learn. I also helped a grade 9 student undergoing kidney dialysis at Sick Kids who needed an advocate to help him secure funding for teaching both at the hospital and at his regular school on days between treatments. Many kids who don't have a voice at school need others to advocate on their behalf. Having an experienced lawyer on board helps reassure parents that the law can assist in achieving what they believe is best for their child. Lawyers can open or restore communication with teachers, principals, school boards and ministry officials, often without the need for a hearing or adversarial proceedings. And, as a last resort, lawyers can provide effective representation to families if a hearing or litigation becomes necessary.

For more information about the Child Advocacy Project's Education Law Program go to: <https://www.pblo.org/volunteer/educationlaw/>

**KAREN PERRON, BORDEN
LADNER GERVAIS LLP**

Volunteering my time in the community has been an important component of my professional development. I regularly volunteer at the Pro Bono Law Ontario clinic at the Ottawa courthouse and coordinate a roster of volunteers from our firm as part of BLG's commitment to staffing the clinic with a volunteer every other Wednesday. I also coordinate the provision of legal services to parents in need of assistance at the [Children's Hospital of Eastern Ontario](http://www.cheo.on.ca/) legal clinic, a joint program between BLG and PBLO. Volunteering for these initiatives provides an opportunity to dispense assistance to members of our community who would not otherwise receive the benefits of legal advice and is an easy way to meaningfully address some of the serious access to justice issues that currently dominate our profession. From early on in my career, mentors have encouraged me to give my time and, having experienced the rewards of participating in pro bono initiatives, I now pass along that message to all younger lawyers.



**STEPHANIE
GIANNANDREA,
MARTHA MCCARTHY &
COMPANY LLP**

Parents who have lost their children to Children's Aid Societies typically face many challenges, and navigating the appeal process should not be one of them. By offering pro bono legal services to parents appealing crown wardship orders, we're able to make the court process more accessible to a very vulnerable population and help parents advocate effectively on appeals that have an enormous impact on them and their children. [The Crown Wardship Pilot Program](#) is administered by PBLO in partnership with The Advocates' Society and with the assistance of the Ontario Court of Justice, Superior Court of Justice and Court of Appeal for Ontario. Volunteers assist unrepresented, low income litigants appealing crown wardship no access orders. I help with the administration of the Program and have argued two pro bono appeals. This work provides an opportunity to engage with interesting clients and meaningful legal issues, practise appellate advocacy, and think critically about effective ways to improve access to justice for families in our community.

Learn more about these pro bono programs at the links below:

Pro Bono Law Ontario (PBLO):

<https://www.pblo.org/>

Children's Hospital of Eastern Ontario:

<http://www.cheo.on.ca/>

Crown Wardship Appeals Project:

<https://www.lawhelpontario.org/appeals/crown-wardship-appeals/>

**Duty Counsel Program for
LSUC Disciplinary Hearings:**

<http://www.advocates.ca/new/advocacy-and-practice/pro-bono.html#duty counsel>



**PHILIP NORTON, PHILIP
NORTON BARRISTER LLP**

I began volunteering with The Advocates' Society pro bono [Duty Counsel Program](#) a number of years ago. The purpose of the program is to provide unrepresented paralegals and lawyers with access to duty counsel during their conduct or disciplinary proceeding at the Law Society of Upper Canada.

Due to the structure of the Duty Counsel Program, volunteers must often digest the facts and absorb materials very quickly and receive direction from the paralegal or lawyer member on how best to assist them within their limited capacity as duty counsel. For many advocates, this is a very unfamiliar and perhaps uncomfortable feeling. However, the ability to remain adaptable is an essential skill which the program nourishes. My enthusiasm to continue volunteering with the program is also driven by the genuine appreciation expressed by Law Society panelists and prosecutors for the role I play in the process.

Although my area of practice permitted me to amass in-court and litigation experience early in my career, for those who are not as fortunate due to their area of practice, but who are desirous of the same, I could think of no better volunteer opportunity to hone one's advocacy skills.



**BREESE DAVIES,
BREESE DAVIES LAW**

Being convicted and sentenced for a criminal offence is a devastating experience. Criminal appeals raise complex legal and factual issues that most appellants cannot navigate

themselves. For the last eight years, I have had the privilege of being part of the [Inmate Appeal Duty Counsel Program](#), a small group of experienced criminal appellate lawyers who assist self-represented, indigent appellants with their appeal from conviction or sentence. We spend days reviewing the trial records to identify legal errors and preparing oral argument. It is a mountain of work (we usually argue 5 to 10 appeals each session) but it is equally rewarding. The people we assist are often the most vulnerable and marginalized. We are their last line of defence. We listen to them and advocate for them. We use our skills to guard against miscarriages and to ensure that they each receive a fair hearing. I am so lucky to be part of a team that helps people who would not otherwise have counsel to fight their appeals. And, from time to time, we win an appeal that might otherwise have slipped through the cracks.



**JAMES CAMP, CAMP
ADVOCACY PROFESSIONAL
CORPORATION**

I was lucky to be one of the first five volunteer lawyers for the Ontario Securities Commission's [Litigation Assistance Program](#), having had a hand in its founding.

Commissioner Alan Lenczner recently described the LAP as a "wonderful opportunity" for young advocates, "great for the law firms" and a "benefit to society." Although I am biased, I can confirm that volunteering as LAP counsel is indeed a wonderful opportunity.

Firstly, the training provided to LAP volunteers by the Securities Litigation Practice Group is outstanding. Secondly, the LAP gave me the opportunity to develop "on my feet" advocacy experience in an area where it is hard for a young advocate to obtain. Lastly, and contrary to what I had assumed, the typical applicant to the LAP is unsophisticated, bewildered by the OSC's enforcement process and without the means to retain competent counsel. As a result they suffer acute anxiety about the professional and financial consequences facing them in the proceeding. It was tremendously satisfying to help these people understand the case against them and navigate the OSC's process.

**MARY PATERSON, OSLER,
HOSKIN & HARCOURT LLP**

I have had a great experience volunteering at [PBLO's programs](#) in three of Ontario's courts, including the Amicus Curiae Duty Counsel Program (Court of Appeal), the Law Help Centre (Superior Court) and Small Claims Court. The judges and self-represented litigants are always appreciative, my firm has been very supportive, and the impact of improving access to justice is tangible. Volunteering has improved my advocacy and client relationship skills, given me a ton of experience in the Court of Appeal, and connected me with some fabulous lawyers. Last year, through the Amicus Program, I had carriage of a case that changed the way the Crown approaches disclosure in Part I *Provincial Offences Act* cases – which will impact more than 1 million charges this year alone! It's been challenging, fun and valuable to me, to the Courts and, most of all, to the individual self-reps who, sometimes for the very first time, believe that they too benefit from the rule of law.



Learn more about these pro bono programs at the links below:

Inmate Appeal Duty Counsel Program:

<http://www.appealsduty counsel.com/about>

**Ontario Securities Commission's
Litigation Assistance Program:**

https://www.osc.gov.on.ca/en/Proceedings/litigation-assist_index.htm

Volunteering with PBLO litigation projects:

<https://www.pblo.org/volunteer/lho/>

AROUND TAS



1400 lawyers can't be wrong. #EOT #LawProm



Advocates' Society retweeted
Grant Wedge @Grant_Wedge - Jun 18
@Advocates_Soc Thank you incoming President McCarthy - 50% fewer speeches = more time to connect here at Advocates!



END OF TERM 2015



President
Peter J. Lukasiewicz



Vice-President
Martha A. McCarthy



Treasurer
Peter K. Doody



Secretary
Bradley E. Berg



The Advocates' Society, Canada's leading organization for advocates, is dedicated to promoting excellence in advocacy and the highest standards of professionalism within a fair and accessible justice system. On behalf of our 5,000 members across Canada, we extend greetings to all Canadians on the 800th anniversary of the Magna Carta which shaped the justice system we strive to uphold.

Peter J. Lukasiewicz
President, The Advocates' Society



Art Linton
Director, Magna Carta Canada

Dated this 15th day of June 2015.

The Advocates' Society is proud to contribute to the commemoration of the 800th anniversary of the Magna Carta. This poster will be included in a time capsule which will be re-opened in 2065. The purpose of the time capsule is to memorialize Canada's recognition of the importance of the Magna Carta to democracy and our system of justice. For more information on the Magna Carta Canada 2015 Tour, [click here](#).

THE NEXT 5

EDUCATION PROGRAMS

ADVANCED DO A TRIAL
September 26, 2015 - Toronto

CONDUCT OF THE FAMILY LAW MOTION
October 2, 2015 - Toronto

ARBITRATION ADVOCACY
October 7, 2015 - Toronto

WRITTEN ADVOCACY
October 16-17, 2015 - Toronto

APPELLATE ADVOCACY
October 20, 2015 - Toronto

For A Full Listing of
Education Programs [Click Here](#)

SOCIETY EVENTS

YOUNG ADVOCATES' PUB NIGHT
September 9, 2015 - Toronto

OPENING OF THE COURTS / CATZMAN AWARD
September 24, 2015 - Toronto

MENTORING DINNER: THE NEXT EPISODE
October 22, 2015 - Toronto

AWARD OF JUSTICE PRESENTATION AND DINNER
October 27, 2015 - Toronto

FALL CONVENTION
November 11-15, 2015 - Grand Velas, Mexico

For A Full Listing of
Advocacy Events [Click Here](#)

PRACTICE GROUPS

FIFTH ANNUAL SECURITIES SYMPOSIUM
September 10, 2015 - Toronto

CONSTRUCTION LAW PANEL DISCUSSION
September 24, 2015 - Toronto

HOT TOPICS IN CLASS ACTIONS
October 15, 2015 - Toronto

LABOUR AND EMPLOYMENT PANEL DISCUSSION
October 21, 2015 - Toronto

ARBITRATION AND MEDIATION ADVOCACY PANEL DISCUSSION
October 22, 2015 - Ottawa

For A Full Listing of
Practice Groups [Click Here](#)



The Award of Justice

will be presented to

Joseph J. Arvey, Q.C.

on

October 27, 2015

[Click here to register](#)